

# Order

Entered: March 25, 2003

Michigan Supreme Court  
Lansing, Michigan

Maura D. Corrigan,  
Chief Justice

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Clifford W. Taylor  
Robert P. Young, Jr.  
Stephen J. Markman,  
Justices

2002-54

Proposed New Rule 2.406  
of the Michigan Court Rules

---

On order of the Court, this is to advise that the Court is considering proposed new Rule 2.406 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal, or to suggest alternatives. The Court welcomes the views of all. This matter will be considered at a public hearing by the Court before a final decision is made. The schedule and agendas for public hearings are posted on the Court's website, [www.courts.mi.gov/supremecourt](http://www.courts.mi.gov/supremecourt).

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[The following new language would be added.]

## Rule 2.406 Use of Facsimile Communication Equipment

- (A) Definition. "Facsimile communication equipment" means a machine that transmits and reproduces graphic matter (as printing or still pictures) by means of signals such as those sent by telephone, cable, or radio.
- (B) Use. Courts may permit the filing of pleadings, motions, affidavits, opinions, orders, or other documents by the use of facsimile communication equipment. Except as provided by MCR 2.002, a clerk shall not permit the filing of any document for which a filing fee is required unless the full amount of the filing fee is paid or deposited in advance with the clerk.
- (C) Paper. All filings must be on 8½ by 11-inch paper that is not subject to more rapid deterioration than ordinary typewritten material on ordinary paper, and must be in at least 12-point type.

- (D) Fees. In addition to fees required by statute, courts may impose fees for facsimile filings in accordance with the schedule that is established by the State Court Administrative Office for that purpose.
- (E) Number of Pages. Courts may establish a maximum number of pages that may be sent at one time.
- (F) Hours. Documents received during the regular business hours of the court will be deemed filed on that business day. Documents received after regular business hours and on weekends or designated court holidays will be deemed filed on the next business day. A document is considered filed if the transmission begins during regular business hours and the entire document is received.
- (G) Originals. Documents filed by facsimile shall be considered original documents. The filing party shall retain the documents that were transmitted by facsimile communication equipment.
- (H) Signature. For purposes of MCR 2.114, a signature includes a signature transmitted by facsimile communication equipment.

Staff Comment. Proposed new MCR 2.406 is based on a recommendation from the Michigan Judges Association. It would establish a uniform practice statewide for those courts that choose to allow the filing of documents by facsimile communication equipment. Similar local court rules would be rescinded, along with Supreme Court Administrative Order No. 1990-9 and No. 1994-2.

The staff comment is published only for the benefit of the bench and bar and is not an authoritative construction by the Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on this proposal may be sent to the Supreme Court Clerk in writing or electronically by July 1, 2003, P.O. Box 30052, Lansing, MI 48909, or [MSC\\_clerk@courts.mi.gov](mailto:MSC_clerk@courts.mi.gov). When filing a comment, please refer to ADM File No. 2002-54. Your comments and the comments of others will be posted at [www.courts.michigan.gov/supremecourt](http://www.courts.michigan.gov/supremecourt).



I, CORBIN R. DAVIS, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

*March 25*, 2003

*Corbin R. Davis*

Clerk